

STATE OF NEW YORK

THE STATE TAX COMMISSION

In the Matter of the Petition

of

FASHION PRESS, INC.

**For Redetermination of Deficiency
or for Refund of License Fee under
Section 181 of Article 9 of the
Tax Law.**

Fashion Press, Inc., having filed a petition for redetermination of deficiency or for refund of license fee under Section 181 of Article 9 of the Tax Law, and a hearing having been held in connection therewith at the office of the State Tax Commission in New York City on June 14, 1968 before John J. Genevich, Hearing Officer of the Department of Taxation and Finance, at which hearing Ivan Faggen, accountant, appeared personally and testified, and the record having been duly examined and considered by the State Tax Commission,

It is hereby found:

(1) That the taxpayer was incorporated under the laws of Delaware on October 25, 1961 and began business in New York on July 1, 1962;

(2) That on the basis of a report filed and subsequent information obtained, the Department of Taxation and Finance issued a statement of audit adjustment on August 15, 1967 computing an additional license fee of \$9,587.55 and issued a notice of deficiency therefor as follows:

| | |
|--|-------------|
| Number of shares of no par value stock issued as of August 31, 1966 | 1,145,470 |
| License fee allocation percentage | 13.9645% |
| Number of shares allocated to New York | 159,959 |
| License fee at six cents per share | \$ 9,597.55 |
| License fee per taxpayer's report | 10.00 |
| Deficiency in license fee | \$ 9,587.55 |

(3) That petition for redetermination of deficiency or for refund of license fee was filed on January 12, 1968;

(4) That the number of shares of capital stock authorized in the certificate of incorporation is 1,500,000 shares of no par value common stock; that 1,145,470 shares were issued as of August 31, 1966, of which 320,500 shares were held by the corporation as treasury stock; that from date of incorporation taxpayer has credited the common stock account on its general ledger with five cents for each share issued and amounts received in excess thereof were credited to the capital surplus account;

(5) That Section 181 of the Tax Law, reads, in part, as follows:

"Every foreign corporation . . . doing business in this state, shall pay a license fee of one-eighth of one per centum on its issued par value capital stock employed within this state and six cents on each share of its capital stock without par value employed within this state for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state."

Upon the foregoing findings and upon all the evidence presented, the State Tax Commission hereby

DECIDES:

(A) That the capital stock of the taxpayer represents shares without par value and a license fee on

the number of shares allocable to New York is payable at the rate of six cents per share pursuant to Section 181 of the Tax Law;

(B) That the 320,500 shares of common stock held by the taxpayer as treasury stock should not be taken into consideration in computing the New York base since such shares are not being employed;

(C) That, accordingly, the additional license fee due is redetermined as follows:

Redetermination

| | |
|---|----------------|
| Number of shares of no par value stock issued as of August 31, 1966 | 1,145,470 |
| Less: Number of shares held as treasury stock | <u>320,500</u> |
| Number of shares employed | 824,970 |
| License fee allocation percentage | 13.9643% |
| Number of shares allocable to New York | 115,203 |
| License fee at six cents per share | \$6,912.18 |
| License fee per taxpayer's report | 10.00 |
| Redetermined deficiency in license fee | \$6,902.18 |

(D) That the redetermined deficiency in license fee does not include fees, taxes or other charges which are not legally due.

Dated at Albany, N.Y.

this 8th day of April 1969.

THE STATE TAX COMMISSION

/s/

JOSEPH H. MURPHY
COMMISSIONER

/s/

A. BRUCE MANLEY
COMMISSIONER

/s/

MILTON KOERNER
COMMISSIONER

Mr. Edward Rook
Mr. Nigel Wright
Fashion Tress, Inc.

This is one of the pending corporation tax cases transferred to this office by the Law Bureau, on March 25, 1969.

I have reviewed the determination prepared by the Corporation Tax Bureau and I am in agreement with it.

/s/

NIGEL G. WRIGHT
NIGEL WRIGHT
Hearing Officer

March 31, 1969

NW:pw

ER

DEPARTMENT OF TAXATION AND FINANCE

MEMORANDUM

TO: Mr. Best

OFFICE Corporation Tax

FROM: Mr. Doran

DATE September 26, 1968

SUBJECT: Fashion Tress, Inc.

RECEIVED
DEPARTMENT OF
SEP 26 1968

Attached is the file and proposed decision pursuant to Article 27, which redetermines the deficiency in license fee under Section 181 of Article 9, based on the fiscal year ended August 31, 1966.

After your review, please send the file to the Tax Commission for consideration.


Director

Attachment